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Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization
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Draft report

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III. Peaceful settlement of disputes

1. The Special Committee considered the item entitled "Peaceful settlement of disputes" during the general exchange of views held at its 287th and 288th meetings, on 20 February 2018, and during the 2nd meeting of the Working Group of the Whole, on 22 February.

2. Delegations expressed their support for all efforts to address the peaceful settlement of disputes. Delegations recalled that States should refrain from the threat or use of force, highlighting the obligation to settle disputes by peaceful means pursuant to Articles 2 (3) and 33 of the Charter. It was noted that the peaceful settlement of disputes was more cost-effective in preventing conflict and maintaining international peace and security. Some delegations emphasized the right of States to freely choose the peaceful means to settle international disputes. The Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV), annex) was recalled in that respect.

3. Several delegations asserted the importance of preventive diplomacy, conflict prevention and respect for human rights in the peaceful settlement of disputes. In that connection, the Human Rights Up Front initiative launched by the Secretary-General and the role of the Organization in preventive diplomacy and conflict prevention were mentioned in the Working Group of the Whole. Some delegations also pointed out the importance of multilateralism in the peaceful settlement of disputes.

4. A number of delegations reaffirmed the role of the International Court of Justice, as the principal judicial organ of the United Nations, in promoting the peaceful settlement of disputes and stressed the usefulness of the Court's advisory opinions on legal questions. Some underlined the importance of strengthening international courts, tribunals and arbitral mechanisms. The significance of the Manila Declaration on the Peaceful Settlement of International Disputes, approved by the General Assembly in 1982 and annexed to its resolution 37/10, was also recalled.

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5. Several delegations stated that the annual thematic debate on the means for the settlement of disputes contributed to the more efficient and effective use of peaceful means and promoted a culture of peace among Member States. In the Working Group of the Whole, several delegations expressed the view that the Special Committee should continue to analyse all means envisaged in Article 33 of the Charter.

6. Delegations reiterated their preference that, in accordance with the mandate of the Special Committee, the question of the peaceful settlement of disputes remain on its agenda.

A. Means for the settlement of disputes: exchange of information on State practices regarding the use of negotiation and enquiry

7. In accordance with paragraph 6 (a) of General Assembly resolution 72/118, delegations focused their debate on the subtopic "Exchange of information on State practices regarding the use of negotiation and enquiry".

8. The view was expressed that negotiation was the fundamental and primary means of dispute settlement, as was evident from dispute settlement clauses of numerous multilateral and bilateral instruments, including the Charter itself, and in declarations adopted by the General Assembly relating to the peaceful settlement of disputes. It was noted that negotiation had often been resorted to by States in resolving not only international disputes but also regional and national conflicts and situations. The role of negotiation as an essential prerequisite for the functioning of regional organizations was also mentioned. It was suggested that negotiation, which featured direct dialogue and consultation between the parties to a dispute, and was the simplest way for the parties to manage the dispute settlement process, could best reflect the free will of the parties and the principle of sovereign equality and afford a more just and sustainable solution to a dispute. Therefore, the view was expressed that, although the negotiation process might be difficult and time-consuming, the outcome of a dispute settlement by negotiation was more likely to be accepted and implemented by the parties.

9. Several delegations stated that the principles of good faith, equality and justice were essential for negotiation to be meaningful. Some also mentioned the importance of patience, flexibility, cooperation, mutual respect and solidarity during a negotiation process. In that respect, the case law of the International Court of Justice,[1] setting out an obligation of the parties to conduct negotiations in a meaningful fashion, was recalled. General Assembly resolution 53/101, on principles and guidelines for international negotiations, was also recalled. It was noted that, during the negotiation process, the parties to a dispute should refrain from taking any unilateral measures that would hinder the achievement of a final agreement. The view was expressed that all avenues of negotiation at all levels should be exhausted before parties resorted to international courts or tribunals. Some delegations also highlighted the important role played by the United Nations and regional organizations in negotiation processes.

10. Delegations offered practical examples of negotiation, such as the Joint Comprehensive Plan of Action reached in 2015 with the Islamic Republic of Iran by China, France, Germany, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, the United States of America and the European Union; the settlement of disputes concerning land and maritime delimitations between China and its neighbouring States; maritime boundary disputes involving the United States; land and maritime boundary disputes involving India; the facilitation of the Belgrade-Pristina dialogue by the European Union; the mediation of Cuba for the settlement of

[1] *North Sea Continental Shelf, Judgment, I.C.J. Reports 1969*, p. 3, para. 85.

the Colombian dispute in 2014; the agreement reached by Guinea, Liberia and Sierra Leone during a summit hosted by Morocco concerning the Mano River in 2002; and the General Peace Treaty reached in 1980 between El Salvador and Honduras. Delegations also exchanged examples of national-level disputes that were settled by negotiation.

11. With regard to enquiry, it was stated that enquiry was based on the elucidation of facts and represented a valuable peaceful means for the settlement of international disputes. The view was expressed that the application of enquiry should be strictly governed by the purposes and principles of the Charter. The Convention for the Pacific Settlement of International Disputes, of 1907, and the International Fact-Finding Commission envisaged in the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), of 8 June 1977, were recalled as important for enquiry. Some delegations stressed the importance of the role of the United Nations and the specialized agencies in the use of enquiry.

12. The Special Committee recommends that the thematic debate to be held at its next session be on the subtopic ["Exchange of information on State practices regarding the use of mediation"].